

## **REMARKS**

All amendments and cancellation of claims are made without acquiescing to any of the Examiner's arguments or rejections, and solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals (PBG),<sup>1</sup> and without waiving the right to prosecute the cancelled claims (or similar claims) in the future.

In the Office Action mailed 11/30/06, the Examiner objected to the use of the abbreviation "BLV". The Applicants have amended Claim 1 to include the recitation of bovine leukemia virus. As such, the Applicants respectfully request that the objection be withdrawn. The Examiner has further objected to Claims 4, 7, 22 and 27 as being of improper dependent form. These claims have been cancelled (See below). As such, the objection is moot.

In the Office Action mailed 11/30/06, the Examiner issued several rejections. Each of the rejections is discussed in detail below.

### **I. The Claims are Definite.**

The Examiner rejects Claims 14-16, 19-21 and 24-25 under 35 U.S.C. 112, second paragraph as allegedly being indefinite due to the recitation of "the C-terminal from amino acids 110-137", etc. (Office Action, pg. 3). The Applicants respectfully disagree. Nonetheless, in order to further their business interests and the prosecution of the present application while preserving the right to prosecute the canceled (or similar) claims in the future, the Applicants have canceled Claims 14-22 and 24-29. As such, the rejection is moot.

The Examiner further rejects Claim 21 under 35 U.S.C. 112, second paragraph as allegedly being indefinite due to insufficient antecedent basis (Office Action, pg. 3). As described above, Claim 21 has been canceled. As such, the rejection is moot.

The Examiner additionally rejects Claims 14-16, 19-21 and 24-25 under 35 U.S.C. 112, second paragraph as allegedly being indefinite due to the recitation of "low stringency" (Office Action, pg. 3). As described herein, Claims 22 and 27 have been canceled. Claims 4 and 7 have further been canceled (See below). As such, the rejection is moot.

---

<sup>1</sup> 65 Fed. Reg. 54603 (Sept., 8, 2000).

**II. The Claims are Directed Towards Statutory Subject Matter**

The Examiner rejects Claims 1-2 and 14-18 under 35 U.S.C. 101, as allegedly being directed towards non-statutory subject matter. In particular, the Examiner states that the specification defines “the meaning of “a host cell” as any eukaryotic cell, whether located in vitro or in vivo.” (Office Action, pgs. 3-4). The Applicants respectfully disagree. Nonetheless, in order to further their business interests and the prosecution of the present application while preserving the right to prosecute the canceled (or similar) claims in the future, the Applicants have amended Claim 1 to recite “non-human” as suggested by the Examiner. Claims 14-18 have been canceled for other reasons (See above). As such, the Applicants respectfully request that the rejection be withdrawn.

**III. The Claims are Supported by Written Description**

The Examiner rejects Claims 1-22 and 24-29 under 35 U.S.C. 112, first paragraph, as allegedly lacking written description. In particular, the Examiner states “this limited information is not deemed sufficient to reasonably convey to one skilled in the art that Applicants is in possession of a genus of transdominant negative BLV Rex mutant able to inhibit BLV replication.” (Office Action, pg. 7). The Applicants respectfully disagree. Nonetheless, in order to further their business interests and the prosecution of the present application while preserving the right to prosecute the canceled (or similar) claims in the future, the Applicants have amended Claims 1, 3, and 6 to recite the BLV Rex mutants encoded by SEQ ID NOs: 5 and 7 and have canceled Claims 4 and 7. As the Examiner has admitted that the specification provides written description for these mutants (Office Action, pg. 7), the Applicants submit that they have provided sufficient written description for the presently claimed invention. Accordingly, the Applicants respectfully request that the rejection be withdrawn.

**IV. The Claims are enabled**

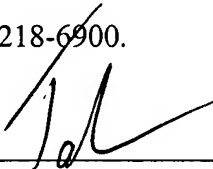
The Examiner rejects Claims 1-22 and 24-29 under 35 U.S.C. 112, first paragraph, as allegedly lacking enablement. The Applicants respectfully disagree. As described above, the independent claims have been amended to recite the BLV Rex mutants encoded by SEQ ID NOs: 5 and 7. The Examiner has admitted that the specification is enabled for mutants encoded by

SEQ ID NO: 5 (Office Action, pg. 10). The Examiner has further admitted that the specification teaches the construction of the mutant described by SEQ ID NO: 7 (Office Action, pg. 10). The specification describes activity of the mutant encoded by SEQ ID NO: 7 (See e.g., Figures 22A-C and Example 5). As such, the Applicants respectfully submit that the presently claimed invention is enabled and request that the rejection be withdrawn.

**CONCLUSION**

If a telephone interview would aid in the prosecution of this application, the Examiner is encouraged to call the undersigned collect at (618) 218-6900.

Dated: February 28, 2007



\_\_\_\_\_  
Tanya A. Arenson  
Registration No. 47,391

**MEDLEN & CARROLL, LLP**  
101 Howard Street, Suite 350  
San Francisco, California 94105  
608.218.6900